Compliance as process: Work safety in the Chinese construction industry
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Chapter 3 Explaining and Evaluating Regulatory Enforcement

1. Introduction

As shown in chapter 2, local safety enforcement generally employed an instructive, persuasive, and informal, non-coercive approach, but inevitably many variations appeared in practice. Thus, why does the local construction safety regulatory authority behave in such ways? What are the consequences of this regulatory enforcement practice? What insights can we obtain to understand the compliance process? What can we learn from these empirical findings in order to improve regulatory enforcement and compliance performance? Exploring these questions will draw attention away from frontline inspection at a micro-level to a discussion at a macro-level. This chapter aims to understand enforcement practice of the local construction safety regulatory bureaus by analysing two related aspects: how we can explain the observed enforcement performance, and how should we perceive and evaluate such practice.

The analysis in this chapter is based on a combination of participant observation of routine work in the two district safety stations in M city, and individual interviews with all 11 inspectors (including the leader of the safety station) in the above two bureaus. This chapter is structured as follows: section 2 introduces theoretical perspectives adopted to develop the analytical framework. Section 3 then focuses on explaining regulatory enforcement. It points out four critical aspects that contribute to shaping enforcement practice: making enforcing self-regulation of the building business as the primary policy goal, applying the accident-based sanction mechanism, using the strategy of risk aversion, and maintaining a balance in the relation between the regulatory agency and its agents. Section 4 seeks to evaluate regulatory enforcement by analysing its direct impacts on compliance, as well as other indirect effects. A short discussion follows in the last section.
2. Towards a Theoretical Approach to Explain and Evaluate Enforcement

With an observational approach, regulatory enforcement practice has been presented in a very descriptive way. Such an informative picture can become more worthwhile by exploring the underlying behaviour logic and its impact on compliance in the regulated business.

Explaining regulatory enforcement practice

What explains why the regulatory agency behaves in certain ways? What shapes the enforcement choice and performance? Turing to the regulatory literature, the factors that scholars have identified include five essential domains: the nature of the regulatory task (Gunningham, 1987), the nature of the regulatory problem (Kagan & Scholz, 1984), bureaucratic context (Van Rooij, 2006; Hawkins, 1989; Hutter, 1989; May & Wood, 2003), individual context (May & Winter, 2011; Gormley, 1998; Mascini & Wijk, 2009), as well as external context of enforcement (Zhan, et al., 2013).

Nature of the regulatory task. What is the essence of enforcement activity? How does the regulatory authority interpret its legal and political mandate? What are the goals that the regulatory authority aims to achieve? All these inquiries are related to the nature of the regulatory task. As a result, the nature of the task sets the tone of enforcement (Gunningham, 1987), for example, the tools adopted for enforcement, the effort and commitment that the regulatory agency spends on enforcement, the perception of industry, etc. (May & Winter, 2011; Burby & Paterson, 1993; Gray & Scholz, 1991; Helland, 1998).

Nature of the regulatory problem. The nature of the regulatory problem shapes the enforcement approach to be employed (Kagan & Scholz, 1984). The regulatory problem includes two aspects: (a) Violation: the type of violation or possible risk for violations influences enforcement work (Van Rooij, 2006). In addition, the seriousness and the visibility of violations can affect interactions and decision-making of enforcement (Hawkins, 2002; Hutter, 1997).
(b) Violator: variation in enforcement performance can be related to changes and differences in the type and number of regulated enterprises as well as their attitudes towards and interactions with the regulatory authority (Van Rooij & Lo, 2010; Lo & Tang, 2006; Nielsen, 2006).

**Bureaucratic context.** Organisational contexts can explain variations in enforcement. Such contexts include at least two elements: organisational capacity and structure. (a) Capacity: organisational capacity refers to financial resources, personnel resources, as well as the legal and political authority. The lack of resources or power could produce some constraints on the approaches available and choice of enforcement (Van Rooij, 2006; Lieberthal, 1997; Oliver & Ortolano, 2006). (b) Organisational structure: internal structure arrangement plays a role in functioning and controlling enforcement activity: how the agency can get their staff to enforce in a manner anticipated by the agency, how the agency controls the discretion of an individual inspector, how the agency reviews and evaluates the enforcement effectiveness (Van Rooij, 2006). For example, some studies found that the superiors’ desire, review or approval, and organisational pressures can affect enforcement choice (Winter, 2003; Hutter, 1989; Hawkins, 1989).

**Individual context.** Factors relating to individual inspectors may also be important in affecting enforcement practice. The background (work experience, personality, etc.) of the individual inspectors, their attitudes and willingness (towards regulatory policy goal, tools employed, etc.) influence their discretion, the way they react, and the decisions they make on site (Gormley, 1998; Winter, 2003; Wood, 2003; Mascini & Wijk, 2009; May & Winter, 2011).

**External context.** Scholars have also argued that regulatory enforcement should be examined in the context of changing institutional environments (Lo, et al., 2009). Besides, regulatory enforcement may benefit from inter-organisational involvement (Montpetit, 2002). The analysis of external context includes three main aspects: political, social, and economic forces. (a) Political
support or constraint: on the one hand, central-level commitment for a specific regulatory issue or field can influence the enforcement strategy adopted by the local level authorities. Moreover, changes in central policy can affect the local enforcement trend. Environment protection and law enforcement in China is a good example (Van Rooij & Lo, 2010). On the other hand, local government support is an important element. Many scholars have identified that a lack of political support from key stakeholders at the local level is a major cause of implementation failure in China (Tang, et al., 2010; Zhan, et al., 2013). (b) Social support or constraint: social pressure (complaint, activism, etc.) can affect enforcement work, especially in the field of environment and food safety. Social support will also affect enforcement in different ways (Tang, et al., 2010; Van Rooij & Lo, 2010; Lo & Leung, 2000; Lo, et al., 2006). (c) Economic force: local economy structure, as well as the economic power owned by the regulated business, can shape the work situation of regulatory enforcement (Zhan, et al., 2013; Van Rooij & Lo, 2010; Van Rooij, 2006).

The above five domains constitute a multi-dimensional perspective to analyse the empirical findings in this study.

Evaluating regulatory enforcement practice

From the angle of policy and practice, it is important to figure out the consequences of adopting some particular regulatory approach, and to analyse the effectiveness and efficiency of the enforcement (Vogel, 1986; Kagan, 1994). May and Winter (2011) pointed out that the effect on compliance is ultimately the central issue, however, the literature is sparse in evaluating these effects and has mixed conclusions.

Undoubtedly, assessing the effect of regulatory enforcement has some challenges due to methodological limitations. Even so, the literature has made useful attempts to add new knowledge. Ideally, the analysis of effects on compliance includes two parts: to see direct influence on behaviour maintenance (for those obeying the law) or
behaviour change (for those violating the law), and to see influence on the perceptions, motives, or commitment of the regulated actors about compliance. But the first goal is hard to achieve since research is rarely able to observe actual behaviour and change, or to observe the process of regulatory interaction (May & Winter, 2011). A practical way is to make an evaluation of the general effect on compliance resorting to interviews or self-reports. For example, Nielsen and Parker (2009) employed an approach of asking the regulated entities to report their compliance management efforts reacting to enforcement activities. May and Winter (1999, 2001, 2011) asked inspectors to rate the effectiveness of their enforcement efforts, and also investigated how the regulated entities perceived their inspection experience. Mascini and his colleagues (2009) analysed the consequence of food inspection in the Netherlands with similar dual-perspectives.

Moreover, some empirical studies demonstrated that regulatory enforcement may have other indirect effects in practice, for example, to raise regulated entities’ knowledge and awareness of legal rules, to strengthen the level of cooperation with inspectors, or to shape regulatory relations (May & Winter, 2011; Nielsen & Parker, 2009; May & Wood, 2003; Lee, 2008). This study, thus, seeks to evaluate these potential effects as well as limits through an empirical case study.

3. Explaining Regulatory Enforcement

(1) Enforcing self-regulation as primary policy goal

During the participant study at the two safety stations, an expression was repeated on many occasions (in-house meeting, chatting with inspectors): what we can do is to remind them (the construction firms) of guaranteeing work safety during construction. It thus brings some inquiry: How does the regulatory authority interpret its legal and political mandate? An independent interview was conducted for all 11 inspectors from the two safety stations. Surprisingly, the answers were very similar. The following is a typical
expression (Interview 02):

‘Our job is supervision and administration, which means our agency is not the subject of safety responsibility. Our agency is a branch of the (local) government, and we just play a role of assisting, reminding, as well as supervising from the outside, while the building company takes total responsibility for their business behaviour all along. We cannot take the place of the construction businesses, neither can we become the safety manager of the construction project.’

This explanation includes two layers of meanings: first, construction work safety is essentially the business of the construction companies, who should take care of safety issues and relevant behaviours. Second, the task of the regulatory agency is to offer certain assistance, reminders, and supervision.

Thus, the frontline inspectors tended to give instructions, use persuasion, adopt an informal style; they normally had no clear prioritisation for what to inspect except in the enforcement campaign; they often took a prima facie check based on paper-trail and question-answer method, or a quick look around. Because, in some sense, whatever they did, they had already fulfilled the task of assisting, reminding, or supervising.

How can we understand this kind of goal? Generally speaking, it defines the nature of the regulatory task as enforcing self-regulation and is in line with a tendency of regulatory practice worldwide—the neo-liberal governing-at-a-distance (Gray & Salole, 2006; Rose, 2000; Gray & Silbey, 2014). It is also in line with the advocate of ‘meta-regulation’ by placing responsibility upon the regulated actors themselves and emphasising self-regulation mechanisms (Parker, 2002; Hopkins & Wilkinson, 2005).

Looking at the construction safety laws in China⁴⁰, seemingly, the laws support such a policy goal definition because the laws say that the construction entity is the first and major subject of safety

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⁴⁰ Here it mainly refers to <Construction Law of People’s Republic of China>(2011); <Regulations of Safe Production Management for Construction Project>(2005).
responsibility and liability. The laws also say that the local construction safety regulatory authority is in charge of safety monitoring and supervising. These prove the legitimacy of enforcing self-regulation as the main legal and political mandate of the local safety station.

However, by reading through the law, at the beginning, it aims to guarantee construction work safety. In other words, it has a primary goal of risk control. The safety laws put different actors together and define the different functions and responsibilities to achieve this goal. Accordingly, the major mission of the regulatory agency is directed to achieve the safety goal even indirectly (i.e. detecting and reacting to violations).

When we look back to the enforcement practice, it is obvious that the regulatory agency takes a simplified strategy—mainly emphasising the responsibility of the regulated construction entities. In the meantime, the agency tends to internalise its image as advisor (Gunninham, 1987) or as auditor (Gray & Silbey, 2014). We cannot affirm that this is wrong, but, in practice, it might implicitly weaken the attention and desire to deal with violations. The following is a case in which the inspectors’ reaction impressed me a lot.

The construction site was messy. The inspectors pointed out several main problems, and threatened to issue a punishment (without specifying the exact content) if the company will not change. On the way back to the office, all three inspectors showed dissatisfaction: ‘this project is always terrible. There might be some bad things happening (incident) sooner or later.’ When I asked, ‘Why did we not take any action (measure)?’ They explained, ‘We have already helped them to figure out the problems, reminded them to change, and warned for a legal outcome. For such bad apples, what we can do is to increase inspections, by which to push

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the companies to improve. What else do you think we can do: to change the safety situation or behaviour by ourselves? In that way, we become the building company’ (Case 13).

The regulatory function was set to remind about obeying the law, rather than dealing with violations and achieving compliance. More importantly, the crucial mission of safety guarantee has been obscured insensibly. As other empirical study argued, in the process of working through and with legislative mandates, regulators cannot help but modify the goals they were designed to serve (Gray & Silbey, 2014).

Why has the regulatory agency/agent narrowed the definition of the regulatory task? Based on the observation, two reasons can be found. The first is related to resources and capacity of the regulatory agency. For the two local construction safety regulatory agencies in this research, X station with 6 agents is in charge of 108 building projects, while W station with 5 agents is in charge of 83 projects in the year when the fieldworks were conducted. In principle, all projects under the jurisdiction should be inspected monthly and recorded in the working summary (in fact, the frequency of checks is lower than planned, as many other administrative issues also occupied the schedule). Objectively speaking, it is a great amount of work compared to limited personnel. In addition, the regulatory agency faces the challenge of expertise. Even though all 11 inspectors at two safety stations have had relevant prior working experience in the construction industry, only four (2 from X station and 2 from W station) had direct educational and professional background in construction. Further, for these four specialists, only two were senior experts with over 20 years of experience, while the other two were young staff with less than 10 years of experience. The lack of expertise, in some sense, affects the competence of the regulatory agency (Kagan, 1994). As some inspectors said, ‘...many specialists in the construction projects have decades of experience. You even might
make a mistake when trying to give instruction.'\textsuperscript{44}

If the above reason is about ‘cannot’, the second is about ‘not wanting to’. Inspectors interviewed generally felt that it was impossible to completely control or eliminate the risks at the workplace. ‘Even if you have taken a thorough inspection of the construction site, detected all violations, and the regulated made corrections and changes following the requirements, who can guarantee there is no incident on the next day?’\textsuperscript{45} Such perception of risk and inspection implies a belief that regulation is left to be determined when a desired level of safety is achieved.\textsuperscript{46}

Due to these factors, enforcing self-regulation of the regulated construction projects becomes a sophisticated extraction to interpret its legal and political mandate. The participant observation of the process of enforcement in the two safety stations generally left this impression: the regulatory agency, in some sense, justifies its practice through such a definition of policy goal. Under this premise, the agency tends to believe that, whatever they do during an inspection, doing something is already better than doing nothing. Concerning other issues: risk control, safety maintenance and improvement, obeying the law, etc. the regulatory agency chooses to leave it to the business.

What are the impacts of such a policy goal? On the one hand, the understanding that regulated entities self-regulate could, to some extent, undermine the construction safety law. It misrepresents the legal requirement and might bring an illusion that the safety law is a kind of service-oriented law with soft coercion. On the other hand, there is no real mechanism of enforcing self-regulation in the practice of the local construction safety inspection agency. The strategy of enforcing self-regulation entails several crucial premises: the regulatory agency can trust the regulated actors, the agency can oversee the compliance performance, and if something goes wrong in

\textsuperscript{44} See: interviews 02, 07
\textsuperscript{45} See: interviews 03, 04, 08
\textsuperscript{46} Gray & Silbey, 2014. “Governing inside the organizational: interpreting regulation and compliance” P128.
the process of self-regulation, the agency is able to control and the regulated actors can obey the sanctions. Regrettably, in this study, no evidence was found that the regulatory agency was well equipped with such mechanisms.

(2) Accident-based sanction mechanism

In chapter 2, when linking the seriousness of the violation and the outputs of enforcement (i.e. the decision of enforcement), regulatory inspectors rarely employed a commensurate sanction towards the medium or stronger violations. As a result, issuing a rectification notice (a very slight warning in practice as inspectors rarely re-examined the result of rectification) became a regular approach. The regulatory agency never differentiates the enforcement measures, and perhaps it never employs any real sanction.

Why are real sanctions rarely issued? First of all, the safety station has no power to issue a fine. In agreement, the safety inspectors believed that a fine was an effective measure in dealing with the violation of regulated construction business. Unfortunately, the power to issue a fine (as well as other more stringent sanctions such as permit revocation, closure of the violating enterprise) has been transferred to the local comprehensive enforcement bureau since the nationwide reform of relatively concentrating power of administrative punishment in 2002. The paradox, however, rests in that the right and duty of inspection is still kept by the local construction safety station. In other words, the local comprehensive enforcement bureau will not go to a building site and check except in the enforcement campaign. It is the local construction safety station

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47 It has been criticised for years that the traditional administrative enforcement mechanism has many disadvantages such as: overstaffing in organisation but inefficiency. The central government of China started to explore the possibility of comprehensive enforcement. To comparatively concentrate the power of administrative sanction and empower it to a unified agency became the most important pilot aspect from 1997. This new mechanism has been popularised nationwide since 2007. See: Huang, eds. 2010. p121.
that takes charge of detecting and reacting to violations in daily operation. But the safety station has to inform and ask the comprehensive enforcement bureau to issue a fine or other sanctions when necessary. In fact, it has been criticised that there exists a less efficient coordination among the different administrative departments in China (Huang, 2010). To issue a fine hence becomes a troublesome procedure.

Moreover, the local construction safety station hesitates to employ a comparatively less stringent sanction under its power: to issue a stop-working order. In the eyes of some construction businesses, to stop working can even cause more loss than paying a fine. In this sense, the safety station believes that a stop-working order will not be issued unless a convincing reason exists. Otherwise, it might become a big affair. Furthermore, to issue a stop-working order is another troublesome procedure because the safety station has to prepare many documents for this decision. After that, inspectors still have to conduct a new inspection when the sanctioned building project applies for resuming work.

What might be the convincing reason for using a real sanction? An accident was the answer. Two construction accidents happened when the fieldwork was conducted. Although I had no chance to participate in the process of handling the accident, the indirect observation as well as the interview afterwards helped to shed new light.

The leader of the safety station was instructed to see the accident site at once. A stop-working order was issued promptly. A joint investigation team was established and started the field

48 See interviews 06, 07
49 In fact, only senior inspectors in the safety station can get involved in handling the accident. When a construction accident happens, an investigation team will be formed, which comprise personnel from the bureau of work safety, the bureau of comprehensive enforcement, as well as the building safety station. In addition, the accident is after all perceived as a sensitive event, the researcher was not allowed to conduct participant observation. As a result, these two cases were not included in the 45 inspection cases analysed in chapter 3.
50 See the prior footnote about the composition of the investigation team.
investigation the next day. The construction safety station was in charge of writing an analysis report to state the accident’s cause and to propose appropriate sanction(s) besides the stop-working order. After the accident was handled, it was the safety station that decided when the sanctioned building project could resume work. During the whole process, the inspectors discussed the issue in a different serious and formal way. Sanctions were made undoubtedly. The inspectors showed more confidence when educating the principal of the sanctioned construction project in the office when the latter came to plead and negotiate. They even recalled the past records of the regulated company when discussing the termination of the stop-working order.

This picture displays another face of regulatory enforcement: a deterrence-oriented approach. More importantly, it proves that accidents become a trigger to initiate a real sanction. Accidents, as a kind of extraordinary offense, dramatically influence the regulatory enforcement performance. In other words, inspectors potentially differentiate the nature of the regulatory problem (accident or not) and take different enforcement strategies. As a result, although the safety laws provide a range of sanctions, enforcement practice adopts a kind of accident-based sanction mechanism.

However, it was not the inspectors’ discretion that shapes the accident-based sanction mechanism. On the contrary, the local building construction station was influenced by a structural constraint—the fragmented bureaucratic system and power displacement. The lack of appropriate and effective power at their disposal makes the safety station stay at a comparatively low level of regulatory authorities. Although the safety laws empower it to enforce the law, in reality, the safety station has a self-identity as a ‘soft’ regulatory agency with low authority. As a result, the agency as well as its agents tend to keep a gesture of assisting (education,

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51 In the interviews, some inspectors tended to describe ‘we’re more like a public service organ rather than enforcement organ’. There were three junior inspectors saying ‘we have no power of enforcement’ (as such power belongs to the comprehensive enforcement bureau).
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persuasion, an informal way) in daily practice, inspectors rarely employ any punitive measure as they believe it does not work well but might get the agency in trouble. However, when an accident happens, the situation changes. The safety station seems to be granted a strong and convincing ‘sceptre’: the handling of the accident opens a quick way to initiate a commensurate sanction which is enough to show deterrence, the safety agency is put in a crucial scene and can show its great function. Perhaps only under such circumstances do inspectors perceive themselves as enforcer.52

What does the accident-based sanction mechanism mean to enforcement practice? In chapter 2, inspectors did change their approach and reaction to the behaviour and attitude of the regulated actor. However, there was some difference when the level of violation was going to rise and an escalating coping and sanction strategy was needed. The accident-based sanction mechanism explains why the enforcement practice of the local construction safety station had limited responsive regulation. An accident draws a line between non-coercion and a real sanction.

Accordingly, the accident-based sanction mechanism creates a broken pyramid of enforcement. Looking at the theoretical model of enforcement pyramid for responsive regulation (Figure 3.1 Enforcement pyramid), we can see that different kinds of regulatory disposals are appropriate for different regulatory arenas (Ayres & Braithwaite, 1992). In this case, it becomes a broken pyramid (Figure 3.2 Broken pyramid).

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52 To clarify, this does not mean that the building safety station as well as its inspectors hope for an accident. The agency of course has other pressures in such an incident. The analysis here only discusses the sanction mechanism and enforcement performance.
Looking at the structure of a broken pyramid, on the one hand, it seems that part of the middle (in the theory) disappears. In fact, it indicates that the disposal towards regulatory arenas at the middle takes a degrading trend rather than an escalating one. In other words, even as the level of violation goes upwards, the actual regulatory disposal inversely goes downwards. On the other hand, the missing part in the pyramid implies a kind of distance—the distance to reach a higher degree of regulatory disposal. In other words, the middle and lower levels are less likely to flow upwards and the probability that a violation receives a substantial penalty is small. In general, the regulatory enforcement practice does not function as a tit for tat strategy.

(3) Risk aversion

Due to a general enforcing self-regulation strategy as well as an accident-based sanction mechanism discussed above, there are doubts about whether a regulatory agency with low authority can fulfil its duty by retreating (Kagn, 1994; McAllister, 2010). The findings in chapter 2, however, revealed that on-site inspection is a
dynamic process, full of interactions, shifts, and variations. On the one hand, normally inspectors still go through the entire procedure of inspection, and they do show varied reactions towards detected violations, in which we can see an attempt to maintain the image as enforcer. Besides a general non-coercive and informal pattern, they also made some exceptions under particular circumstances. On the other hand, as discussed in the above sections, they clearly know they have limited power, capacity, as well as choices. In addition, they generally believed that the regulated construction company should pay the bill for unsafe issues. As a result, inspectors generally took a 'light touch' ('Dian Dao Wei Zhi'), meaning inspectors control the inspection process and make sure regulatory encounters will not proceed to a terrible or serious situation.

What can explain such a two-sided performance? In his study on environmental enforcement at Dianchi Lake, China, Van Rooij (2006) found that the regulatory agent played ‘white face, red face’ ('good cop, bad cop'), through which the agency achieved a relational risk aversion. Lipksy’s study of street level bureaucrats (1980) showed that enforcement agents sought to stay out of trouble and just used risk aversion. In these cases, risk aversion (Wilson, 1989) is an important explanation for enforcement practice. Multiple sources of risk aversion were found in this study.

(i) Legal-political risk

At a monthly internal meeting, the deputy director of the W district BHURD, who had direct leadership over the operation of safety station, addressed all staff at the safety station:

'I know that this job (safety inspection) is not easy, and you all work hard. However, what can show the effort you've made? How can you certify that you have performed your duties? You should of course conduct regular on-site inspections. More importantly, you should leave evidence, i.e. leave the trace of inspection. In this sense, the station should attach importance to establishing an archive for regulation, which should be detailed and normative. For example, take pictures for every violation detected, make records and give feedback (notification)
in writing for each inspection, get all notes and materials documented, write reports to summarise work and present problems when necessary. Given that we keep track well, we won’t be afraid of any checking or blaming from above (i.e. district government, the discipline inspection commission of CCP, etc.).

This statement is a good example of legal-political risk aversion. During the fieldwork, inspectors implemented such a strategy well. Despite the effort that inspectors put in an inspection, they at least attempted to go through the inspection procedure, and make sure to leave a written feedback notice (stating the problems identified and suggestion or rectification requirement made by the safety station) in the end. Normally inspectors explained the content in the notice to the project manager and emphasised the aspects needing to be improved. In some cases, however, I found that inspectors wrote down more violating items and requirements than those they mentioned during the talk. Moreover, it seems that inspectors have a trick of writing reasonable feedback. In my interviews, they explained ‘...the items we wrote down are universal problems and safety risks on the building sites. These items exist all along and cannot be solved in one inspection. When we communicate with the project staffs, we can only emphasise the particular aspects. But in the notice, we mentioned all relevant items and requirements. The notice exists as a reminder. The regulated actors should pay more attention to all aspects’. This strategy worked later. When the news of an accident came, the first reaction of the chief of X district safety station was asking staff to search the documents in order to check whether this was ever pointed out as a problem, as well as asking for any changes or improvements. When the answer was yes, I observed that the chief was quite relieved. In this sense, ‘leaving a trace of inspection’

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53 The accident investigation procedure includes the aspect of finding out who is to be blamed. Once a major production accident happens, the criminal procedure will be initiated. In the latter situation, the local government ascertains who is accountable for regulation, while the disciplinary inspection commission ascertains who takes the leadership responsibility.
54 See: interviews 01, 02, 06, 08.
becomes both a motivation for daily inspection practice and a strategy reacting to legal-political risk.

Sometimes, the safety station has to deal with more complex legal-political risks. For example, some construction projects are invited and introduced directly by the district government in the name of an investment attraction programme. The project started and continued for quite a while without a construction license. The whole project actually was illegal in essence. However, the construction safety station will not ask it to stop working. *We have no (political) power. How could we explain to the government? How could we account for the decision?* As a result, the station had to take such an illegal project as normal and conduct regular inspections. ‘...otherwise, the project will be out of control’. Paradoxically, the safety station neither issued a stop-working order towards other violations during inspection. The logic here, however, was different from the one discussed above: To issue a stop-working order was just the beginning. The station must re-examine when the regulated actor applies for resuming construction. The problem was once the safety station asks for permission, it creates a potential risk. A notice of resuming work implicitly proves that the safety station has admitted the legal status of this project and permits it to continue construction. All these things will put the station in a controversial situation. Therefore, the safety station tends to adopt a strategy of ‘open one eye, close the other one’ towards the cases filled with high legal-political risk. As inspectors explained, *you can inspect more strictly, send more deterrence. But you have to know where the boundary is (don’t make the deterrence become true).*56

These findings in the fieldwork prove that the safety station clearly knows about external legal-political pressures. The attempts at risk aversion hence influence the approach adopted.

**(ii) Regulatory relational risk**

Compared to the legal-political risk, the regulatory agency might

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55 See: interviews 08, 09.
56 See: interviews 03, 07, 09.
spend more energy dealing with direct regulatory relational risk. Van Rooij (2006) pointed out: it could be relational risk aversion that enforcement agents are afraid to upset relationships with regulated actors, while it also could be something one would call ‘loss of face’. Gary and Silbey (2014) summarised, ‘individual regulators become agents of clarification, specification, and elaboration of their own authorizing mandates by choosing among courses of action and inaction in their relation with regulated firms’.

Inspectors in this study described a previous case: they issued a stop-working order to a terrible construction project. However, a call ‘from above’ came in even though they had not left the construction site. Inspectors were very embarrassed as they had to go back and withdraw the order, which made them feel like a fool, and left the agency discredited. I was told, ‘...so you should know how to have leeway, and not to go extremes at the beginning.’

Even without the above particular situation, the regulatory agency does not intend to easily break a normal relationship with the regulated actors. ‘...We just go and help the regulated building company to improve working conditions and avoid any unnecessary harm. In some sense, we are service suppliers. If you always take a gesture of enforcing laws, or making sanctions, you will put yourself at the opposite side against the regulated actors, which finally is unfavourable for your work. Nobody likes an uneasy relationship. Even worse, if the enforcement is too severe, a construction project cannot do construction, while many workers on the construction site are waiting for daily wages. It could become a deadlock and we will be very passive by then.’ This kind of risk perception can partly explain why a cooperative and informal enforcement style occurs most of time.

Nonetheless, the regulatory risk aversion can also create another face of enforcement. ‘...of course we should strategically keep up some certain authority through attitudes or actions. Otherwise, the regulated construction companies won’t take you seriously any more.

57 See: interviews 02, 03, 06, 08.
58 See: interviews 01, 06.
How can you continue inspection smoothly afterwards? In other words, it is right to point out violations and to give criticism and warning. It is appropriate when necessary to send a threatening message that a severe punishment follows. During the process of inspection, you need some skills to remind about the fact that we act on behalf of the government, to give reasonable lessons to bad apples, as well as to make the regulated actors believe that the regulatory agency might take real action at any time. It’s about the prestige of our agency. It’s also about the personal dignity of individual agents.’

The concerns about the regulatory risk have created a two-sided strategy: do not upset the common relationship, while do not lose face.

(iii) Economic and social risks

Besides legal-political risk and regulatory risk, the local construction safety regulatory agency may face risks from economic and social contexts. Undoubtedly, the construction business has played an active role in China’s industries with a contribution to high-speed economic development and a capacity of taking in labour forces. Such economic impact is embodied in the case that local governments rush to import or initiate various construction projects, and in the case that local governments commit to push forward urbanisation. In this context, the way local government treats the construction business is highly related to its economic impact, which in turn indirectly influences the regulatory enforcement in practice. The case discussed above where the district safety station hesitated to intervene in the inviting-investment projects can be further inferred that the political pressure upon the regulatory agency partly originates from such economic power. The economic power hidden in the construction projects can create a kind of potential economic risk for the local construction safety regulatory agency. The agency, with a low level of power and authority, has to be concerned with how to

59 See: interviews 01, 02, 05, 07, 08.
60 For more detailed discussion about local governance and urbanisation, please see: Yin & Li, 2012; Gu, et al., 2013.
perform regulatory duties without interrupting or doing harm to economic development.

Concerning the social context, regrettably, there is not enough social pressure that may promote regulatory enforcement of construction work safety. In the field of environment and food, the public has realised or experienced the drawbacks and hidden troubles of high-speed but deformed development. Furthermore, the community, the stakeholder groups, as well as the NGOs have taken various actions, which draw great attention to punish violations and improve regulatory enforcement. 61 Regarding the construction industry, there is little concern about the potential hazards of unsafe work: the public prefers to care about quality of the construction rather than the physical health and safety issues during the construction process. Moreover, it seems that unsafe working conditions on the construction sites comparatively influence a limited group of people. In some sense, invisible public tolerance has helped to reduce social pressure the regulatory agency should have born, but increases the psychological acceptability towards safety offenses.

In conclusion, the daily enforcement practice is influenced by the external contexts in which legal-political and economic forces are dominant, while social force is absent. This finding implies: firstly, for the construction safety regulatory enforcement, the current external environment is far from ideal. The regulatory agency lacks authority but is sensitive to external contexts. Secondly, the regulatory agency is risk averse. The district construction safety stations attempt to maintain a kind of balance between performing duties and avoiding risks. Risk aversion contributes to explain the enforcement variations, especially the style shifts upwards or downwards during on-site inspection discovered in chapter 2. Inspectors are not just unconsciously responding to the situation and interaction. Risk management strategy affects how inspectors employ their discretions: to make an inspection look good and reasonable. However,

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61 For more detailed discussion about roles of NGOs, please see: Liu, Bin. 2014; Liu, Qingya. 2010.
constrained with a risk management strategy, a regulatory agency might fall into a trap: they only intend and only are capable of taking those easy cases.

(4) Balance between the agency and the agent

The aspects discussed above contribute to explain daily enforcement performance in reference to several key factors including the nature of the regulatory task, the nature of the regulatory problem, the organisational capacity, as well as the external contexts. This sub-section will go further to consider the individual context, as well as its interaction with the bureaucratic context.

Looking at the literature, differences and variations exist between the regulatory agency and agent. Individual inspectors, especially the frontline agents, actually have a great amount of discretion in the interaction with the regulated actors. To what extent inspectors employ discretion is influenced by various elements including individuals' backgrounds, attitudes and willingness. The discretion may also be affected by contextual factors concerning workloads, internal leadership, and organisational implementation machinery. Such discretion of the agents, however, could make enforcement activity diverge from the policy goals of the agency (Gormley, 1998; May & Wood, 2003; Mascini & Wijk, 2009; May & Winter, 2007, 2011).

This sub-section analyses the relation between the regulatory agency and its agents: to what extent do the inspectors studied employ discretions in daily practice? How does the agency (i.e. the district building safety inspection station) take control of the behaviours of the agents?

This paper, based on the empirical data, revealed a certain balance between the agent's discretion and the agency's control. As a result, the enforcement practice showed less divergence and variation between individual’s discretion in practice and policy goal of the agency. First of all, the previous discussion showed that the
district construction safety inspection station, at the lowest level of regulatory authorities, actually has limited power. Consequently, it has limited options for regulatory sanctions. In the meantime, the agency itself does not make full use of its limited power for other reasons, especially mixed risk aversions.

Second, in practice, frontline inspectors do have discretion during an inspection. They differentiate or shift enforcement styles in light of the variations in the inspection type, the seriousness of violation, as well as the communication and interaction with the regulated actors (see chapter 2). However, just as the frontline practice indicated a broken pyramid of enforcement, individual inspectors in fact do not have too many options for discretion. The bureaucratic context, as mentioned above, does not give much leeway for individual agents to use excessive discretion.

More importantly, the regulatory agency actually conducts soft control towards individual’s regulatory activities. In his study of environmental enforcement, Van Rooij (2006) pointed out that the regulatory agency basically controls the discretions of individual inspectors through two aspects: conducting a review mechanism to know what the agents do in practice and providing a benefit mechanism (evaluation, promotion) to supply guidance of conduct. In my study, the situation was a bit different. On the one hand, it was not a problem that the agency knows what the agents do, because it is a very small organisation with a few staff (five or six persons in this study). All persons, including the leader of the safety station all acted as members of the inspection team. On the other hand, there was no formal evaluating system functioning as a mechanism of control. Although the district safety station was affiliated with the district BHURD (the latter is a department of district government), only part of the staff in the safety station were civil servants. The rest were employed based on contracts. Particularly, the evaluation mechanism cannot formally work due to a specific context: the district construction safety station is the regulatory agency that has an ultra-small organisational structure, but bears a great deal of
functions and duties. Considering the circumstances of a huge workload, having less authority, and facing various risks, inspectors actually are less motivated by possible benefits (income, promotion, etc.). Rather, they need to be encouraged through some informal mechanism (psychology identity, emotional bond, shared value, etc.) rather than formal institutions (management, evaluation, review) to maintain cohesion of the agency.

In short, the construction safety regulatory agency at the district level is actually a mini agency with a ‘flat’ structure. In some sense, it is even hard to differentiate agency from agent. Without clear hierarchy, the functioning of the agency relies on a lot of communication and cooperation within the organisation.

This finding presents a picture that I would call a 'Chinese mini regulatory agency mode of operation': a small regulatory agency at the grass-roots level (district/county) takes most of the daily regulatory workload. Such regulatory unit has similar characteristics: simple bureaucratic structure, less stratification, less power and authority. The operation of regulatory enforcement relies on commitments of the limited personnel so that the agency rarely utilises formal mechanisms of organisational management to evaluate or control the behaviours of agents. Meanwhile, the image of regulatory agents as individual inspectors is not as salient as the regulatory theory assumes. They normally appear as a group, behave relying on a kind of collective consciousness as well as collective legitimacy. In general, a mini regulatory agency at the grass-root level exists and functions based on a mix of formal and informal institutions.

**Summary**

In this section, why the local construction safety station conducts safety regulatory enforcement in the means discussed in chapter 2 was explored. The study found that the local regulatory agency has a set of reasons for performing its duties. Such reasons were based
partly on legal requirements, while largely influenced by both internal and external contexts. These reasons shaped the daily practice of regulatory enforcement: general instruction, persuasion, informal oriented pattern, weak sanction, but many shifts, variations and exceptions due to particular circumstances. More importantly, during the regulatory process, a subtle tension existed between the regulatory agency and the regulated actors. Accordingly, enforcement action should be appropriate and reasonable enough that the agency will not be criticised for weak enforcement, but not too strong to cause various risks.

In general, the approaches adopted in the enforcement were a kind of tactful choice made by the regulatory agency under the existing circumstances. The agency, constrained in a power structure, selected a safe and practical path to define its policy goals and working manners. How should we perceive these regulatory strategies? What are the impacts of such regulatory practice upon the safety compliance of the regulated construction businesses?

4. Evaluating Regulatory Enforcement

As May and Winter (2011) argued, differences in enforcement styles mean little unless they can be shown to either directly or indirectly affect compliance. This section analyses the impacts of enforcement activities upon safety compliance of the regulated actors. It discusses in sequence direct effects upon compliance, as well as other indirect effects related to compliance.

(1) Effect on compliance

If we perceive compliance as a process of law going to behaviour (law → behaviour)\(^{62}\), or hold that compliance refers to a kind of legal result or response (Cialdini & Trost, 1998; Parker & Nielsen, 2009a), we need to focus on behaviour firstly. Does enforcement activity have any influence on behavioural maintenance (for those ‘good apples’) or behavioural change (for specific violations)? An ideal approach to

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assess this effect would be to understand the perceptions of the regulated actor through interviews as well as to observe the actual behaviour, especially any behavioural change after inspection. Macsini and Van Wijk (2009) attempted to capture such perceptions through participant observation of inspections and a questionnaire to all inspected companies. However, it is not easy to witness behavioural change after inspection.

This study did not conduct a corresponding study for all construction projects inspected due to methodological limitations. However, the paper found five construction projects were inspected more than once during this research. These cases provide a way to analyse enforcement performance and its effect on the same regulated actor, in order to ascertain whether the enforcement styles vary in accordance with the level of violation and whether the regulated actors improve their compliance performance afterwards.

<table>
<thead>
<tr>
<th>Inspection</th>
<th>Style</th>
<th>Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>P01-1</td>
<td>Formal, Instruction, Persuasion</td>
<td>Medium</td>
</tr>
<tr>
<td>P01-2</td>
<td>Informal, Instruction, Persuasion, Punitive Action</td>
<td>Bad</td>
</tr>
<tr>
<td>P03-1</td>
<td>Formal, Instruction, Persuasion</td>
<td>Bad</td>
</tr>
<tr>
<td>P03-2</td>
<td>Formal, Instruction, Punitive Action</td>
<td>Bad</td>
</tr>
<tr>
<td>P06-1</td>
<td>Informal, Instruction, Persuasion</td>
<td>Medium</td>
</tr>
<tr>
<td>P06-2</td>
<td>Informal, Instruction, Persuasion</td>
<td>Medium</td>
</tr>
<tr>
<td>P08-1</td>
<td>Informal, Instruction, Persuasion</td>
<td>Medium</td>
</tr>
<tr>
<td>P08-2</td>
<td>Informal, Instruction, Persuasion, Threats</td>
<td>Bad</td>
</tr>
<tr>
<td>P08-3</td>
<td>Informal, Instruction, Persuasion, Threats</td>
<td>Bad</td>
</tr>
<tr>
<td>P34-1</td>
<td>Formal, Instruction, Persuasion</td>
<td>Medium</td>
</tr>
<tr>
<td>P34-2</td>
<td>Informal, Instruction, Persuasion</td>
<td>Medium</td>
</tr>
</tbody>
</table>

According to Table 3.1, in the repeating inspections three construction projects kept the same level of violation (P03, P06, P34), while two projects even became worse (P01, P08). It seems that compliance performance of the regulated projects had little improvement or change in the short-term. To some extent, enforcement activities have only a limited impact on compliance, at least for a behavioural change within the short-term. In addition,
inspectors have little options or methods to change compliance performance of the regulated actors within the short-term.

This draws attention to a possible counter-effect of frontline inspection on compliance practice of the regulated actors. Ayres and Braithwaite (1992) pointed out that a regulatory agency with limited sanction choices is unable to deliver a punishment payoff. In these cases, the seriousness of the violation and the regulatory disposal were incommensurate. A crucial impact of this problem may be the weakening of possible deterrence at both objective and subjective levels.

On the one hand, a new ‘violation pyramid’ appears due to the enforcement practice (Figure 3.3 Violation pyramid).

As discussed before, a real sanction will not be initiated until an accident happens. However, an accident represents a kind of result, which implies that as long as such a result does not emerge, a regulated construction company, even though it repeated some middle or high level violations, could stay at the bottom part of the pyramid [Figure 3.3(1)]. Furthermore, every construction project has a time limit. Once the construction cycle has ended without any
accident, a regulatory story ends. Nobody will care about what violations happened in the past. In the long-term, most violating companies will thus not be exposed, and may always stay at the bottom part of the pyramid [Figure 3.3 (2)]. The violation pyramid thus suggests an important reason why illegal activities are repeated, widespread and continue regardless of any effort made by the regulatory agency: objective deterrence of regulatory enforcement is undermined in practice.

On the other hand, the subjectively perceived deterrence may be decreased. Given that a construction company keeps repeating offenses without receiving any corresponding regulatory disposal, it will not believe that the enforcement has strength. Accordingly, construction companies might have little motivation or no realistic pressure to improve their compliance commitment.

In their study of ‘law enforcement as a game between inspectors and inspectees’, Bruijn and his colleagues (2007) argued that the regulated strategically responded to regulators to reduce compliance costs. This empirical case of how and why that strategy can ultimately backfire revealed that when regulatory sanctions are incommensurate with activities of the regulated, and the latter have no obvious change in the short-term, the daily practice of regulatory enforcement will ironically undermine the authority of the regulatory agency itself, and also undermine the norms of safety laws.

(2) Other effects

Scholars have argued that regulatory enforcement may have an impact on the regulated entities’ awareness of rules and on the degree of their cooperation with inspectors (May & Winter, 2011). In my case, there were indirect effects concerning communication, relationship and cooperation.

63 Concerning the discussion and adoption of subjectively perceived deterrence, please also see: Grasmick & Bryjak, 1980; Decker et al., 1993; Thornton et al., 2005.
64 How the regulated actors perceive the regulation/regulator is further discussed in the next part of the book analysing compliance from the internal process of the organisation.
Firstly, regulatory enforcement contributes to strengthen a face-to-face interaction, especially mutual communication. Theory of jurisprudence holds that the law is actually a process of communication (e.g. Van Hoecke, 2002). Legal norms and rules are interpreted, disseminated, or absorbed through mutual communication. In the long run, communication plays a positive role in improving legal knowledge and awareness. Safety inspectors stated, ‘Why do we conduct repeating inspections? It’s only through constant contact and supervision that the regulated actors can gradually deepen their impression of safety rules. And we see it works.’ In the on-site inspections, some project managers also expressed their gratitude as enforcement helps to improve safety awareness.

Secondly, regulatory practice may help to establish and maintain an easy or even good relationship. Neither regulator nor the regulated business would rashly neglect the balance of relations. For the regulatory inspector that has less authority, relationship maintenance helps to reduce working difficulties and preserve their dignity. For the regulated actors, it implies a reduction of potential risks from the regulatory agency, and may even bring some other benefits. Taking annual appraisal as an example, the district safety station usually holds an annual appraisal and gives some reward for those standardised (‘Biao zhun hua’) construction sites and advanced (‘Xian jin’) construction companies, i.e. naming the good apples. It is actually an administrative measure rather than enforcement through which the regulatory agency aims to send a message: the regulated actors should be positive in the regulatory encounters. Of course not all regulated actors care about such an appraisal. But some ‘smart’ construction companies do see the benefit: they take it as an opportunity to improve social reputation, which is in favour of future investment. In the meantime, being named a standardised construction site or advanced construction company implies a more positive relationship with the regulatory agency. For these reasons,

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65 Interviews 01, 02, 06, 07.
66 Inspections 08, 13, 21.
some construction companies attempt to develop a ‘trust’ relationship with the agency: they express the intention to apply for the annual appraisal, voluntarily invite the safety station to inspect the construction site, present their improvement in compliance performance. As expected, the safety station does extend a certain amount of trust and respect to these projects. In the fieldwork, there was a more comfortable relation between two sides. However, this could produce corruption. This paper can only say that there was no clear evidence or sign to prove the existence of corruption in this process.

Thirdly, regulatory enforcement helps to improve the degree of cooperation. Referring to the cases of on-site inspection, the inspectors do care to what extent the regulated actors show responsiveness and cooperation. An active response and a gesture of being cooperative with the inspection implicitly help to strengthen inspectors’ judgement and expectation that the regulated actor could achievement compliance. It further helps to win a space to negotiate for a favourable enforcement disposal. The effort of improving cooperation, however, may have a side effect, that is, the construction company just shows its cooperation which could create a trick for coping with inspection: the regulated actors know well how the inspector normally goes through an inspection, what they will do and ask, what their concerns are, how they will make a decision. More importantly, the construction company grasps how to react and handle the situation. Such a trick implies the existence, as Gray (2006) argued, of a Potemkin Village: the regulated company puts in efforts only to ‘look compliant’.

Summary
When analysing the general impacts that daily regulatory enforcement may have upon the regulated construction businesses, I found that the direct positive effect on compliance was not as strong and efficient as expected, but other indirect effects on the degree of mutual communication, relation maintenance, as well as degree of
cooperation between the regulatory agency and the regulated actors were found in the empirical study. This was actually in line with the findings in the literature (May & Winter, 2011; Black, 1998, 2002).

Given that the regulated actors were committed to develop and maintain a good relationship with the regulatory agency, to enhance communication, and to increase responsiveness in the frontline inspection, rather than commit to improve the safety compliance performance, or to manage their own behaviours related to the safety law, the regulated actors actually acted as ‘the politicians’ (Kagan & Scholz, 1984). Certainly, all possible impacts of regulatory practice upon safety compliance of the regulated were mainly analysed from the perspective of external regulatory process. Compliance is a complex process, which is not easily linked back to enforcement action alone (Van Rooij, 2006). Accordingly, the impact of enforcement is further analysed from the perspective of the regulated world, i.e. from the organisational process in Part II.

5. Discussion

In summary, Part I of this book analysed the external regulatory process in order to develop an understanding of work safety compliance. The analysis focused on three aspects: how the construction work safety law was enforced at a local level, what factors shaped the regulatory performances, and the impacts of the regulatory practice on compliance. Generally, the local construction work safety regulatory agency adopted a non-coercive and informal approach to conduct daily regulatory enforcement, but also many variations occurred in accordance with specific situations. The overall enforcement practice was subject to many factors in which four aspects were significant: a general policy of enforcing self-regulation, an accident-based sanction mechanism, a strategy of risk-aversion, and a particular agency-agent binding pattern. According to the empirical study from the perspective of regulatory actors, the regulatory enforcement had a limited direct impact on the compliance practice of the regulated construction businesses. In the
meantime, some complex effects on the communication, relationship, and cooperation emerged.

What do these findings mean for the literature and understanding of regulatory enforcement in China as well as regulatory compliance? First of all, there was overall weak enforcement and lack of proper deterrence. This was apparently in line with the existing literatures saying that regulatory enforcement fails in many fields due to inefficient policy results (Li & Shao, 2007; Zhang, 2009; Wang, Jixia, 2011). However, the whole story cannot be boiled down to factors such as incapacity, individual discretion, or corruption. The empirical study of frontline regulatory agency revealed: enforcement failure was too simple a conclusion to depict the regulatory practice as a living process, to depict the delicate tension embodied in the interaction between the regulatory agency and the regulated actors. The regulatory agency employed an education and cooperation based approach but still tried to keep certain level of authority and the possibility of using deterrence. Thus a paradox emerged where the agency was incapable of controlling violations, but still attempted to control the situation. It was hard to clearly define the image of the inspector as police, teacher or politician (Kagan & Scholz, 1984). It was also hard to label the regulatory performance as retreatist, conciliatory, flexible, perfunctory or legalistic (McAllister, 2010). The local regulatory agency strategically chose some safe and pragmatic paths to shape its policy goals and working methods.

Secondly, we need to pay attention to the limits of responsive regulation in practice. The recent Chinese literature has advocated for policy reforms towards soft enforcement (Rouxing zhifa), negotiated enforcement (Xieshang zhifa), as well as responsive regulation (Meng, 2006; Chen & Cai, 2007; Lv, 2009; Lu, 2010; Li & Wang, 2012; Sun & Li, 2012). Research has attributed enforcement failure to deficiencies of the traditional command and control approach (Wang, 2005; Yang & Lin, 2006; Chen & Cai, 2007). Weak enforcement not only lies in the ineffective control of violations, but also manifests as improper
enforcement actions that induce some extreme events, such as enforcement with violence and conflict, especially in the field of urban comprehensive administration (Wang, 2011; Jiang & Zhang, 2008). The new reform orientation proposes that enforcement should make a corresponding response and disposal by differentiating specific actors, issues, or situations. These reform proposals share some similarities with the theory of responsive regulation in the Western literature. Regrettably, there are few studies in the Chinese literature that elaborate any detailed proposal, path, or operating mechanism to build up the theory, or conduct empirical studies to test the feasibility of the theoretical propositions. As a result, it is hard to make an accurate comparison with responsive theory in the Western literature. According to my research, however, the responsiveness of regulatory enforcement in practice was actually limited. On the one hand, theory of responsive regulation bases its propositions on the logic of trust (Ayres & Braithwaite, 1992). It is about the trust that regulators can have in regulated actors. They must at first be trustful and cooperative and escalate only to sanctions when the trust is broken. On the other hand, a cornerstone of responsive regulation lies in the objective existence of deterrence, i.e. regulatory enforcement does have strength when necessary. Furthermore, such deterrence can be subjectively perceived by both inspector and the regulated actors. If a regulatory enforcement mechanism does not possess such fundamental elements, an alleged responsive regulation will go to a dark side: no trust, no strength, superficial response and cooperation. Such a ‘fake’ responsive regulation undoubtedly is incapable of dealing with violations. In the long run, it may even destroy the dignity and authority of laws.

Thirdly, it is worth pointing out the implicit danger when advocating for the adoption of meta-regulation (Gunningham, 2011). Besides the trap of responsive regulation, some theoretical confusion might appear in terms of enforcing self-regulation. On a world scale, it has become a neo-liberal idea to encourage and enforce the self-regulation of the regulated actors (Parker, 2002). From the
perspective of risk control, such a mechanism is practical and efficient. The subject, who continuously creates and sustains certain risks, especially in the fields of environment, food, mining, manufacturing industry, etc., should bear primary responsibility. In China, a large number of fields have been strengthening the operating mechanism of self-regulation through new legislation or revision of the law. Nonetheless, one thing to note is that there should be a deliberate system designed for the adoption of meta-regulation. Theoretically, an ideal pattern is: on the one hand, a set of institution and mechanism functions that guarantee the regulated actors can really fulfil self-management and self-regulation. On the other hand, when self-regulation fails or is inefficient, the regulatory authority is capable of duly activating a mechanism of monitoring and remedying, which helps the regulated actor recover its self-regulation, or ensure the regulated actor takes liability. As Hopkins and Wilkinson (2005) pointed out, the regulator’s role is far more than passive compliance monitoring or the oversight of a mere paper trail. In brief, ‘accountability’ is a core element to run effective meta-regulation.

Coming back to this study, enforcing self-regulation of the construction companies has become a primary regulatory strategy of the local regulatory agency. Although Part I has not yet touched on how the regulated actors carry out self-regulation (which is analysed in the next part), it did reveal that the regulatory agency lacks a set of efficient or effective mechanisms to deal with the circumstances if self-regulation fails. In the subjective aspect, regulatory agents rarely had any accountability that the agency should take behind self-regulation; objectively, they lacked useful measures to promptly urge a recovery or undertake responsibility. Under such circumstances, it was not a real meta-regulation because accountability was far from being implemented. It might become risky as the regulatory agency hereby releases its workload while the regulated actors conduct self-management with laissez-faire, which

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could cause some unexpected outcomes. This argument can be supported, more or less, by the studies of Van der Heijden (2014). After examining different cases in both developed and developing countries, he argued that given too much responsibility and disciplinary power in the hands of the actor responsible for enforcement, this actor, intentionally or not, can carry out insufficient monitoring or not respond adequately, and thus violations may go unnoticed.

The above arguments also suggest some policy implications, especially the possible lessons for the practice of safety regulatory enforcement. Firstly, it calls attention to the authority of the law, as well as the authority of the regulatory agency, especially the local level agency. Considering its regulatory workload, a local regulatory agency does need more (financial, personnel) support; even though staying at a lower level of the administrative bureaucratic system, the enforcement power of the local agency could still be made independent and improved so that it is able to have more authority when exercising external duties and dealing with external pressures. The transformation of the regulatory agency into a more professional organ is also urgently needed. Secondly, there is a major challenge concerning the psychological and cultural basis of legal authority. For a long time, from the perspective of the practitioner, academia, the media, or the public, it has been generally perceived that regulatory enforcement in China is weak. There is even a belief that the law will withdraw when a large number of possible violators exist (’Fa bu ze zhong’). Therefore, it is necessary to disseminate a positive message, through successional and steady enforcement rather than campaigning (Van Rooij, 2006) that the law is sacred and anyone could pay the price for violation. In other words, it is important to make subjective deterrence come into play. Thirdly, the objective deterrence of regulatory enforcement needs to be strengthened. Although the deterrent model has been changed in a neo-liberal age (Hawkins, 1984; Aalders & Wilthagen, 1997; Gunningham, 1987), in the context of China, the implementation of law is a lack of universal
deterrence. The regulatory agency lacks power, measures, operating condition, as well space to make sanctions when necessary. As a result, the positive effect of enforcement is greatly reduced, while counter-effects appear. It is crucial, thus, to smooth the detached pattern of penalty power, to guarantee the use of commensurate regulatory dispositions matching the violations.

Moreover, academia in China should turn away from debates on theoretical design of ideal regulation models and enforcement patterns and pay more attention to empirical studies on specific issues and the concrete reality of the regulatory world. Last but not the least, as repeatedly mentioned, the main findings and reflection in this part derive from a focus on the side of regulatory enforcement. Could anything differ or provide new insights by looking at the other side of regulatory relation, i.e. the organisational process of compliance? The next part, thus, explores and understands safety compliance from the world of the regulated actors.